

Remarks:

In the November 28, 2007, Office Action, Claims 125-128 and 130-147 were rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite.

In the November 28, 2007, Office Action, Claims 1, 2, 8, 9, 14, 75, 79, 83-86, 93, 104, 107, 108-111, 112, 125-128, 131, 133, and 144-147 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 3, 4, 6, 10, 12-16, and 20 of U.S. Patent No. 7,086,782. Claim 143 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 75 and 95 of copending Application No. 10/300,355. Claims 1, 75, 104, 125-128, 130, and 140-147 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 6, 11-17, 19, and 20 of U.S. Patent No. 7,165,887.

On the merits, Claim 104 was rejected under 35 U.S.C. Section 102(b) as being anticipated by Herber et al. (U.S. Patent No. 5,525,363). Claims 1, 2, 6-9, 14, 18, 19, 75, 79, 82-86, 104, 107-112, 122-130, 132, 134-137, and 142-147 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Belmont et al. (U.S. Patent No. 6,327,754) in view of Stolmeier et al. (U.S. Patent No. 6,257,763). Claims 16, 93, 131, 138, 139, and 141 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Belmont et al. in view of Stolmeier et al. and Hayashi et al.

Claim 133 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Belmont et al. in view of Stolmeier et al. and May (U.S. Patent No. 5,725,312). Claim 140 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Belmont et al. in view of Stolmeier et al. and Boeckmann et al. (U.S. Patent No. 4,846,585).

### **Section 112 Rejections**

With regard to the 35 U.S.C. Section 112, second paragraph, rejection of Claims 125 and 144 as being indefinite, Applicants had been attempting to cover multiple alternate embodiments rather than upon a single embodiment. Inasmuch as the Examiner has raised this issue, Applicants have now focused upon a single primary embodiment and have revised independent Claims 125 and 144, together with the other three independent claims in the patent application, Claims 1, 75, and 104, accordingly.

### **Double Patenting Rejections**

In response to the three double patenting Applicants have decided to remove these issues by filing Terminal Disclaimers. Accordingly, accompanying this Response to Office Action are three (3) Terminal Disclaimers in compliance with 37 CFR Section 1.321(b) to overcome all three of the double patenting rejections. The conflicting patents, U.S. Patent Nos. 7,086,782 and 7,165,887, and the conflicting patent application, U.S. Patent Application No. 10/300,355, are all assigned to Sargento Foods, Inc., the assignee of the present patent application.

### **Amendments to the Claims**

Independent Claims 1, 75, 104, 125, and 144 have been amended to more particularly define the construction of the reclosable bag of the present invention. Claims 125 and 144 have also been amended both to be consistent with the invention as now defined and to comply with the Examiner's suggestion to modify these claims. The claim amendments do underscore the tremendous differences between Applicants' invention and the cited prior art. Basis for the amendments is found in the specification in paragraphs 0075 through 0078 as well as in the FIGS. 7 and 8 (and in FIGS. 11, 19, 21, 28, and 37, as well as the specification portions accompanying these figures). Thus, no new matter has been added.

### **Section 102(b) and Section 103(a) Rejections**

All of the rejections on the merits are believed to be moot in view of the fact that Applicants have extensively revised each of the independent claims in the patent application (Claims 1, 75, 104, 125, and 144) to include additional limitations related to the notches in the fastener structure and the sealed peripheries of the fastener structure. None of the cited references teach or suggest the claimed construction taught by the amended independent Claims 1, 75, 104, 125, and 144, and as such these claims appear to be patentable at this time. Accordingly, there was (and is) no need to discuss the additional limitations of the dependant claims at this time.

Applicants believe that Claims 1, 2, 6-9, 14, 16, 18, 19, 75, 79, 82-86, 93, 104, 107-112, 122-128, and 130-147 are patentable at this time. These claims remain pending

following entry of this Amendment I, and are believed to be in condition for allowance at this time. As such, Applicants respectfully request entry of the present Amendment I and reconsideration of the application, with an early and favorable decision being solicited. Should the Examiner believe that the prosecution of the application could so be expedited, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

Respectfully submitted:

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